



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,391	08/07/2001	Tal Givoly	XACTP001	6261

28875 7590 04/23/2003

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE, CA 95172-1120

EXAMINER

TRAN, PHILIP B

ART UNIT	PAPER NUMBER
----------	--------------

2155

DATE MAILED: 04/23/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

926

P24

Office Action Summary

Application No.
09/924,391

Applicant(s)
Givoly

Examiner
Philip B. Tran

Art Unit
2155



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 4, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

DETAILED ACTION

1. **The declaration under 37 CFR 1.131 is insufficient to overcome the rejections based on the Deri et al and Conklin et al (references).**

Applicant's Exhibit A, have no reference to the combined claimed feature, and fail to support Applicant's statement regarding the conception of the claimed invention prior to August 17, 1999.

Regarding the date of **reduction to practice**, Applicant's Exhibit A provide no description of "A method and system for receiving accounting information over a packet-switched network, monitoring at least one aspect of the received accounting information, and discarding at least a portion of the accounting information based on the monitored aspect". No description of the claimed invention have been provided.

The current declaration is silent regarding the functionality and operability of managing, monitoring and discarding at least a portion of the accounting information based on the monitored aspect.

For all the reasons discussed above, the evidence submitted is insufficient to establish a reduction to practice of the invention in this country prior to the date of the Deri et al and Conklin et al (references).

Again, the evidence as a whole contains no sketches, blue prints, notes, records of meetings, etc. as proof that regarding the conception of the claimed invention.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-4, 6-8, 10-17, and 20-22 are rejected under 35 U.S.C. § 102(e) as being anticipated by Conklin et al (Hereafter, Conklin), U.S. Pat. No. 5,991,881.

Regarding claim 1, Conklin clearly teaches a method for processing network accounting information, comprising receiving accounting information over a packet-switched network, monitoring at least one aspect of the received accounting information, and discarding at least a portion of the accounting information based on the monitored aspect (i.e., network traffic measurement and monitoring for reporting information about captured packets and detecting intrusion into the network and into computers connected to the network for denial of service) [see Abstract and Figs. 6-9 and Col. 1, Line 10 - Col. 2, Line 4].

Regarding claim 2, Conklin further teaches the method as recited in claim 1, wherein the accounting information is discarded for providing a defense against network attacks (i.e., against network intruder) [see Abstract].

Regarding claim 3, Conklin further teaches the method as recited in claim 1, wherein the accounting information is discarded for dealing with heavy network traffic (i.e., monitoring and analyzing the traffic communication) [see Fig. 6].

Regarding claim 4, Conklin further teaches the method as recited in claim 3, and further comprising generating a summary of the accounting information (i.e., reported of collected information and stored information in the database) [see Col. 4, Line 52 - Col. 5, Line 45].

Regarding claim 6, Conklin further teaches the method as recited in claim 1, wherein monitoring the at least one aspect of the received accounting information includes detecting a scan of a plurality of Internet Protocol (IP) addresses (i.e., detecting IP address) [see Col. 5, Lines 26-45 and Col. 6, Lines 44-60].

Regarding claims 7-8, Conklin further teaches the method as recited in claim 1, wherein monitoring the at least one aspect of the received accounting information includes monitoring a rate of receipt of the accounting information and whether the rate of receipt of the accounting information exceeds a predetermined amount (i.e., monitoring and collecting network data such as traffic over time) [see Figs. 6-8 and Col. 4. Lines 30-67].

Regarding claim 10, Conklin further teaches the method as recited in claim 1, wherein the network includes the Internet (i.e., using TCP/IP suggests the network attached to the Internet) [see Col. 3, Lines 15-21].

Claim 11 is rejected under the same rationale set forth above to claim 1.

Claims 12-14 are rejected under the same rationale set forth above to claims 2-4, respectively.

Claims 15-17 are rejected under the same rationale set forth above to claims 6-8, respectively.

Claims 20-22 are rejected under the same rationale set forth above to claim 1.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Conklin et al (Hereafter, Conklin), U.S. Pat. No. 5,991,881 in view of Savoldi et al (Hereafter, Savoldi), U.S. Pat. No. 5,727,146.

Regarding claim 5, Conklin does not explicitly teach the method as recited in claim 1, wherein monitoring the at least one aspect of the received accounting information includes detecting a scan of a plurality of ports. However, portscan detection is well-known in the art as

disclosed by Savoldi [see Abstract and Col. 1, Line 61 - Col. 2, Line 30 and Col. 2, Line 53 - Col. 3, Line 3]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to scan the ports in order to track down ongoing attacks and identifying potential intrusions on the network and system connected to the network.

Claim 18 is rejected under the same rationale set forth above to claim 5.

6. Claims 9 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Conklin et al (Hereafter, Conklin), U.S. Pat. No. 5,991,881 in view of Trcka et al (Hereafter, Trcka), U.S. Pat. No. 6,453,345.

Regarding claim 9, Conklin does not explicitly teach the method as recited in claim 1, wherein monitoring the at least one aspect of the received accounting information includes monitoring a load on a system receiving the accounting information. However, monitoring and collecting statistic information such as traffic load is well-known in the art as disclosed by Trcka [see Col. 21, Lines 24-28]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to monitor a load on the system in order to avoid traffic congestion and overload problems.

Claim 19 is rejected under the same rationale set forth above to claim 9.

7. Claim 23 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Conklin et al (Hereafter, Conklin), U.S. Pat. No. 5,991,881 in view of Savoldi et al (Hereafter, Savoldi), U.S. Pat. No. 5,727,146 and further in view of Trcka et al (Hereafter, Trcka), U.S. Pat. No. 6,453,345.

Regarding claim 23, Conklin teaches a method for processing network accounting information, comprising receiving accounting information over a packet-switched network, monitoring at least one aspect of the received accounting information, and discarding at least a portion of the accounting information based on the monitored aspect (i.e., network traffic measurement and monitoring for reporting information about captured packets and detecting intrusion into the network and into computers connected to the network for denial of service) [see Abstract and Figs. 6-9 and Col. 1, Line 10 - Col. 2, Line 4]. Conklin further teaches generating a summary of the accounting information (i.e., reported of collected information and stored information in the database) [see Col. 4, Line 52 - Col. 5, Line 45], detecting a scan of a plurality of Internet Protocol (IP) addresses (i.e., detecting IP address) [see Col. 5, Lines 26-45 and Col. 6, Lines 44-60], and monitoring a rate of receipt of the accounting information and whether the rate of receipt of the accounting information exceeds a predetermined amount (i.e., monitoring and collecting network data such as traffic over time) [see Figs. 6-8 and Col. 4. Lines 30-67]. Conklin does not explicitly teach detecting a scan of a plurality of ports. However, portscan detection is well-known in the art as disclosed by Savoldi [see Abstract and Col. 1, Line 61 - Col. 2, Line 30 and Col. 2, Line 53 - Col. 3, Line 3]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to scan the ports in order to track down ongoing attacks and identifying potential intrusions on the network and system connected

to the network. In addition, Conklin does not explicitly teach monitoring a load on a system receiving the accounting information. However, monitoring and collecting statistic information such as traffic load is well-known in the art as disclosed by Trcka [see Col. 21, Lines 24-28]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to monitor a load on the system in order to avoid traffic congestion and overload problems.

Other References Cited

8. The following references cited by the examiner but not relied upon are considered pertinent to applicant's disclosure.

- A) Cunningham et al, U.S. Pat. No. 6,219,786.
- B) Gleichauf et al, U.S. Pat. No. 6,499,107.
- C) Vu, U.S. Pat. No. 5,623,601.
- D) Mukherjee et al, "Network Intrusion Detection", IEEE 1994.

9. A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE THREE MONTHS, OR THIRTY DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. FAILURE TO RESPOND WITHIN THE PERIOD FOR RESPONSE WILL CAUSE THE APPLICATION TO BECOME ABANDONED (35 U.S.C. § 133). EXTENSIONS OF TIME MAY BE OBTAINED UNDER THE PROVISIONS OF 37 CAR 1.136(A).

Serial Number: 09/924,391
Art Unit: 2155

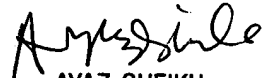
Page 9
Paper No. 7

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tran whose telephone number is (703) 308-8767. The Group fax phone number is (703) 746-7239.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh, can be reached on (703) 305-9648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

FBT
Philip B. Tran
Art Unit 2155
April 09, 2003


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100